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2                   UNITED STATES DISTRICT COURT  
3                   WESTERN DISTRICT OF WASHINGTON  
4                   AT TACOMA

5                   UNITED STATES OF AMERICA,

6                   Plaintiff,

7                   v.

8                   NOE LUJANO-BENITEZ,

9                   Defendant.

10                  CASE NO. CR13-5408BHS

11                  ORDER

12                  This matter comes before the Court on Defendant's unopposed motion to continue the trial date and adjust the Pretrial Motions briefing schedule. The Court, having considered the unopposed motion, the affidavit of defense counsel in support of the motion and the Defendant's speedy trial waiver, makes the following findings of fact and conclusions of law:

13                  1. The defense has filed pretrial motions for additional discovery and to suppress evidence and awaits the results of laboratory, fingerprint and DNA testing that have been requested.

14                  2. The defense needs additional time to explore all relevant issues and defenses applicable to the case, which would make it unreasonable to expect adequate preparation for pretrial proceedings or for trial itself within the time limits established by the Speedy Trial Act and currently set for this case. 18 U.S.C. § 3161(h)(7)(B)(ii).

15                  3. Taking into account the exercise of due diligence, a continuance is necessary to allow the defendant the reasonable time for effective preparation his defense, to explore resolution of this case before trial and to substantially ensure continuity of defense counsel. 18 U.S.C. § 3161(h)(7)(B)(iv).

4. Proceeding to trial absent adequate time for the defense to prepare would result in a miscarriage of justice. 18 U.S.C. §3161(h)(7)(B)(i).

5. The ends of justice served by granting this continuance outweigh the best interests of the public and the defendant in a speedy trial. 18 U.S.C. § 3161(h)(7)(A) and (B).

6. Defendant waived speedy trial through February 28, 2014.

NOW, THEREFORE, IT IS HEREBY ORDERED

That the trial date is continued from December 10, 2013, to February 4, 2014, at 9:00 a.m. Pretrial Conference is set for January 27, 2014, at 9:00 a.m. The government's response to Defendant's Pretrial Motion is due by December 2, 2013; Defendant's reply is due by December 9, 2013. The resulting period of delay from October 31, 2013, to February 4, 2014, is hereby excluded for speedy trial purposes under 18 U.S.C. § 3161(h)(7)(A) and (B).

Dated this 6<sup>th</sup> day of November, 2013.

  
BENJAMIN H. SETTLE  
United States District Judge